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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SHASHIKIRAN JAVVAJI and WILLIAM J. IVANICH

Appeal 2016-002491
Application 13/542,418
Technology Center 2400

Before DEBRA K. STEPHENS, ERIC B. CHEN, and
KARA L. SZPONDOWSKI, *Administrative Patent Judges*.

SZPONDOWSKI, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–20. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE and enter a NEW GROUNDS OF REJECTION pursuant to 37 C.F.R. § 41.50(b).

STATEMENT OF THE CASE

Appellants' invention is directed to selecting a media channel. Spec. ¶¶ 3–4. Claim 1, reproduced below with the disputed limitations in *italics*, is illustrative of the claimed subject matter:

1. A method of operating a media control system comprising:

detecting a first numeric user input, wherein the first numeric user input is defined by an amount of time that the first numeric user input is pressed;

determining that the first numeric user input corresponds to a first numeral when the amount of pressed time of the first numeric user input is less than a predetermined amount of time;

determining that the first numeric user input corresponds to a first set of alphabetic letters when the amount of pressed time of the first numeric user input is at least equal to the predetermined amount of time;

processing the first numeric user input to identify the first set of alphabetic letters in response to determining that the first numeric user input corresponds to the first set of alphabetic letters;

selecting a first plurality of media channel names based on the identified first set of alphabetic letters, wherein each of the first plurality of media channel names begins with a first alphabetic letter corresponding to one of the alphabetic letters of the identified first set of alphabetic letters;

generating a first signal configured to drive a display, wherein the display presents at least the first plurality of media channel names;

detecting a second numeric user input after detecting the first numeric user input;

determining that the second numeric user input corresponds to a second set of alphabetic letters and does not correspond to a second numeral associated with the second set of alphabetic letters responsive to determining the first numeric user input corresponds to the first set of alphabetic letters;

processing the second numeric user input to identify the second set of alphabetic letters associated with the second numeric user input;

selecting a second plurality of media channel names from the first plurality of media channel names, wherein each of the second plurality of media channel names have a first alphabetic letter that corresponds to the first set of alphabetic letters followed by a second alphabetic letter that corresponds to one of the alphabetic letters of the second set of alphabetic letters; and

generating a second signal configured to drive a second display, wherein the second display presents at least the second plurality of media channel names.

REJECTIONS[1]

Claims 1–20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Robarts et al. (US 2005/0278741 A1; published Dec. 15, 2005) ("Robarts"), either Goodman (US 2003/0023420 A1; published Jan. 30, 2003) or Wen (US 4,825,464; issued Apr. 25, 1989), and Jellicoe (US 2005/0062619 A1; published Mar. 24, 2005). Final Act. 5–19.

[1] In the Final Action, the Examiner rejects claims 1–20 on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1–23 of Javvaji et al. (US 8,225,356 B2 (issued July 17, 2017)). Final Act. 20–21. Although the Examiner has not withdrawn this rejection in the Answer (*see* Ans. 2), we note Appellants filed a terminal disclaimer on April 3, 2015, which was approved on April 8, 2015. Accordingly, we do not address this rejection.

ANALYSIS

Issue 1: Did the Examiner err in finding the combination of Robarts, either Goodman or Wen, and Jellicoe teaches or suggests "determining that the second numeric user input corresponds to a second set of alphabetic letters and does not correspond to a second numeral associated with the second set of alphabetic letters responsive to determining the first numeric user input corresponds to the first set of alphabetic letters," as recited in independent claim 1 and commensurately recited in independent claims 11 and 13?

Issue 2: Has the Examiner shown the combination of Robarts, either Goodman or Wen, and Jellicoe teaches or suggests "a remote control, comprising . . . a remote control interface configured to . . . ; and a remote control processing system configured to . . . , wherein the remote control processing system is further configured to . . . transmit the first signal from the remote control . . . transmit the second signal from the remote control; a media control system, comprising: a receiver configured to receive the first signal and the second signal from the remote control," as recited in independent claim 13? Appellants contend the combination, as proposed by the Examiner,

> results [in] a system which has a variety of input modes (the 'alpha' key mode of *Wen*, plus the single-tap or multiple tap mode of *Goodman*, plus the toggle period of *Jellicoe*)[, but this modified *Robarts* system] still does not provide a mode of operation wherein a second user input is identified as a second set of alphabetic letters [if the first user input has been actuated (pressed) for at least the predefined amount of time, thereby designating the first user input as an alphabetic letter, and not a numeral]. That is, the further modified Roberts system does not determine that the second user input is an alphabetic letter in

> response to determining that the first user input corresponds to the first set of alphabetic letters[.]

App. Br. 12–13. Appellants argue "the phrase 'responsive to' defines an essential cause/response relationship between a stimulus and a response." *Id.* at 14. Therefore, according to Appellants:

> after the cause/response relationship has occurred (wherein the pressed time of the first numeric user input exceeds the predetermined amount of time so as to determine that the first numeric user input corresponds to a first set of alphabetic letters), the second numeric user input is then automatically known to be the second set of alphabetic letters.

Id. at 15.

The Examiner finds Jellicoe teaches or suggests the disputed limitation. Ans. 19; Final Act. 9. The Examiner also finds the combination of Robarts with Goodman or Wen teaches or suggests the disputed limitation. Ans. 19, 21–22; Final Act. 8.

Robarts describes an electronic program guide ("EPG") that allows a viewer to enter data from a keypad for both channel numbers and letters. Robarts ¶ 105. When the viewer presses individual keys, the EPG does not know if the viewer intends to press a number or letter. *Id.* at ¶ 106. For each key pressed, the EPG constructs a query which interprets the data as possibly representing a number or one of the letters associated with the numeric key and executes the query to identify any EPG data item that satisfies the query. *Id.* As the viewer continues to enter data, the EPG constructs and executes queries to continuously narrow the list. *Id.*; *see id.* at ¶ 122 (after the viewer presses the "2" key, "[t]he EPG constructs a query for all EPG items in the first list having a next digit beginning with '2,' 'A,' 'B,' or 'C.'").

Goodman describes using numeric keys on a keypad to enter a number sequence corresponding to a word. Goodman ¶ 25. For each letter the user wishes to enter, the user presses the numeric key corresponding to the letter. *Id.* The device employs a word-determining logic, which is designed to determine the word or words corresponding to the numeric key input. *Id.* For example, the sequence "43556" may correspond to the word "hello." *Id.*

Wen describes two types of data entry in a telephone device, TYPE A and TYPE B. Wen col. 3:12–col. 5:58. In TYPE A, the entry selection is performed by using a "circulatory" input method, whereby when only numerals are used, each key is pressed one time. *Id.* at col. 3:58–61. However, when alphabetical letters and numerals are to be entered at the same time, each letter marked key is pressed one or several times to respectively represent the letters and numbers in sequence. *Id.* at col. 3:61–65. In TYPE B, only alphabetical letters are entered. Wen col. 4:33–35. Wen also describes a function ALPHA key, for use with entry of alphabetical letters and numerals. *Id.* at col. 4:58–68.

Jellicoe describes a keypad on an electronic device and use of a "toggle period" to determine whether entry of a number or a character is intended. Jellicoe ¶ 38. If the switch is held for less than the toggle period, a number associated with the switch is entered. *Id.* If the switch is held for longer than the toggle period, a character associated with the switch is entered. *Id.*

We agree with Appellants that the Examiner has not sufficiently explained how the combination of references teaches or suggests the determination is ***responsive to*** determining the first numeric user input

corresponds to the first set of alphabetic letters. The inputs described in the portions of Robarts, Goodman, and Wen relied upon by the Examiner, are independent of each other and are not responsive to a prior input. Likewise, the input in Jellicoe is responsive to the toggle period and independent of the prior input.

In addition, with respect to independent claim 13, Appellants contend the Final Office Action did not expressly reject certain features in claim 13. App. Br. 17. Specifically, Appellants argue the Examiner has not shown "wherein the determination is made at a remote control, wherein signals corresponding to a numeral or a set of alphabetic letters are communicated from the remote control to a media control system having a receiver configured to receive the transmitted signals." *Id.* We agree with Appellants. Specifically, the Examiner has not set forth with specificity where Robarts teaches "a remote control, comprising . . . a remote control interface configured to . . . ; and a remote control processing system configured to . . . , wherein the remote control processing system is further configured to . . . transmit the first signal from the remote control . . . transmit the second signal from the remote control; a media control system, comprising: a receiver configured to receive the first signal and the second signal from the remote control."

Therefore, we do not sustain the Examiner's 35 U.S.C. § 103(a) rejection of independent claims 1, 11, and 13, for the foregoing reasons. Because claims 2–10, 12, and 14–20 depend from claims 1, 11, and 13, we do not sustain the Examiner's 35 U.S.C. § 103(a) rejection of those claims for the same reason.

NEW GROUNDS OF REJECTION

The following new grounds of rejection are entered pursuant to 37 C.F.R. § 41.50(b). Claims 1, 11, and 13 are rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Robarts and Jellicoe.

For the new grounds of rejection, we adopt the Examiner's findings regarding Robarts and Jellicoe (Final Act. 5–19, Ans. 2–27) and supplement the Examiner's findings as follows. We find Jellicoe teaches or suggests "determining that the second numeric user input corresponds to a second set of alphabetic letters and does not correspond to a second numeral associated with the second set of alphabetic letters responsive to determining the first numeric user input corresponds to the first set of alphabetic letters," as recited in independent claims 1 and commensurately recited in independent claims 11 and 13. Jellicoe describes "[a]nother letter-by-letter input scheme involves predicting a next letter of a word based on any previously entered letters and the present keypress. For example, if 'F' and 'O' have already been entered, pressing the '7' key may result in an 'R' on the display." Jellicoe ¶ 9. Based on such disclosure, we find Jellicoe teaches or suggests "determining that the second numeric user input [("7")] corresponds to a second set of alphabetic letters [("P, Q, R, or S")] and does not correspond to a second numeral associated with the second set of alphabetic letters [("7")] responsive to determining the first numeric user input [("6")] corresponds to the first set of alphabetic letters [("M, N, O")] as recited in claim 1, and the commensurate limitations in claims 11 and 13.

We agree with the Examiner (Final Act. 9–10) that it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Robarts with the teachings of Jellicoe in order to yield

predictable results, such as to reduce the number of keypads added to user input devices and to reduce costs. *See* Jellicoe ¶¶ 1, 12. Moreover, we determine it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Jellicoe's described predictive functionality into Robarts' query in order to produce the predictable result of simplifying and narrowing the query. *See* Robarts ¶¶ 18, 24.

Accordingly, we newly reject claims 1 and 11 under 35 U.S.C. § 103(a) as unpatentable over the combination of Robarts and Jellicoe.

In addition, with respect to independent claim 13, we supplement the Examiner's findings as follows for the disputed limitations:

A system comprising:

a remote control (Robarts ¶ 62 ("remote control handset"), ¶ 143 ("the viewer enters the data using the 10-key keypad on the remote control handset"), ¶ 145 ("remote control handset"), Jellicoe ¶ 1 ("[t]his disclosure relates generally to reduced key-pads for devices such as fixed telephones, mobile telephones, personal digital assistants (PDAs), and remote controllers")), comprising;

a remote control interface configured to (Jellicoe ¶ 41 ("Preferably, this flowchart is implemented in software of the electronic device."), Fig. 5; Robarts ¶ 62 ("remote control handset 68), Fig. 5) receive and process a first numeric user input from a pressed first numeric key residing on the remote control that is received for a pressed amount of time (Robarts ¶¶ 62, 104–145; Jellicoe ¶¶ 21, 30, 36–41, Figs. 1, 5–7), and to subsequently receive a second numeric user input from a pressed second numeric key residing on the remote

control after the first numeric user input is received (Robarts ¶¶ 62, 104–145; Jellicoe ¶¶ 21, 24, 28, 30, 36–41, Figs. 1, 5–7); and

a remote control processing system configured to (Jellicoe ¶ 41 ("Preferably, this flowchart is implemented in software of the electronic device."), Fig. 5; Robarts ¶ 62 ("remote control handset 68), Fig. 5) process the first numeric user input and the second numeric user input, wherein the remote control processing system is further configured to: (Jellicoe ¶ 41 ("Preferably, this flowchart is implemented in software of the electronic device."), Fig. 5.)

determine that the first numeric user input corresponds to a numeral when the amount of pressed time of the first numeric user input is less than a predetermined amount of time (Jellicoe ¶¶ 21, 30, 36–41, Figs. 1, 5–7);

determine that the first numeric user input corresponds to a first set of alphabetic letters when the amount of pressed time of the first numeric user input is at least equal to the predetermined amount of time (Jellicoe ¶¶ 21, 30, 36–41, Figs. 1, 5–7);

generate a first signal corresponding to the first set of alphabetic letters (Robarts ¶ 62 ("A remote receiver 148 is also coupled to the I/O adapter 140 for receiving signals from the remote cordless keyboard 66 and remote control handset 68 in an IR or RF format . . ."), Fig. 5);

transmit the first signal from the remote control (Robarts ¶ 62 ("A remote receiver 148 is also coupled to the I/O adapter 140 for receiving signals from the remote cordless keyboard 66

and remote control handset 68 in an IR or RF format . . ."), Fig. 5);

in response to receiving the second numeric user input after receiving the first numeric user input, determine that the second numeric user input corresponds to a second set of alphabetic letters in response to determining that the first numeric user input corresponds to the first set of alphabetic letters (Jellicoe ¶ 9);

generate a second signal corresponding to the second set of alphabetic letters (Robarts ¶ 62 ("A remote receiver 148 is also coupled to the I/O adapter 140 for receiving signals from the remote cordless keyboard 66 and remote control handset 68 in an IR or RF format . . ."), Fig. 5); and

transmit the second signal from the remote control (Robarts ¶ 62 ("A remote receiver 148 is also coupled to the I/O adapter 140 for receiving signals from the remote cordless keyboard 66 and remote control handset 68 in an IR or RF format . . ."), Fig. 5);

a media control system (Robarts ¶ 7 (set-top box), ¶ 19, Fig. 5), comprising:

a receiver configured to receive the first signal and the second signal from the remote control (Robarts Fig. 5, remote receiver 148, ¶ 62 ("A remote receiver 148 is also coupled to the I/O adapter 140 for receiving signals from the remote cordless keyboard 66 and remote control handset 68 in an IR or RF format . . ."); and

a display interface (Robarts interface to television/monitor, Figs. 3, 5) configured to transfer the first signal to drive a first display of at least a first plurality of media channel names, and configured to transfer the second signal to drive a second display of at least a second plurality of media channel names (Robarts ¶¶ 104–145),

wherein the first plurality of media channel names is identified based on the identified first set of alphabetic letters, and wherein each of the first plurality of media channel names begins with a first alphabetic letter corresponding to one of the identified alphabetic letters of the identified first set of alphabetic letters (Robarts ¶¶ 104–145), and

wherein the second plurality of media channel names is identified from the first plurality of media channel names based on the identified second set of alphabetic letters, and wherein each of the second plurality of media channel names has a first alphabetic letter that corresponds to the first set of alphabetic letters followed by a second alphabetic letter that corresponds to one of the identified second set of alphabetic letters (Robarts ¶¶ 104–145).

We agree with the Examiner (Final Act. 9–10) that it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Robarts with the teachings of Jellicoe in order to yield predictable results, such as to reduce the number of keypads added to user input devices and to reduce costs. *See* Jellicoe ¶¶ 1, 12. Moreover, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Jellicoe's described predictive functionality into Robarts' query in order to produce the predictable result of simplifying and narrowing the query. *See* Robarts ¶¶ 18, 24.

Accordingly, we newly reject claim 13 under 35 U.S.C. § 103(a) as unpatentable over Robarts and Jellico.

Although we have rejected claims 1, 11, and 13 under 37 C.F.R. § 41.50(b), we have not reviewed the remaining claims to the extent necessary to determine whether these claims are unpatentable under 35 U.S.C. § 103. We leave it to the Examiner to determine the appropriateness of any further rejections based thereon.

DECISION

The Examiner's 35 U.S.C. § 103(a) rejection of claims 1–20 is reversed.

We enter NEW GROUNDS OF REJECTION, pursuant to 37 C.F.R. § 41.50(b), rejecting claims 1, 11, and 13 under 35 U.S.C. § 103(a) as unpatentable over Robarts, Goodman or Wen, and Jellico.

Section 41.50(b) provides "[a] new ground of rejection pursuant to this paragraph shall not be considered final for judicial review." Section 41.50(b) also provides:

When the Board enters such a non-final decision, the appellant, within two months from the date of the decision, must exercise one of the following two options with respect to the new ground of rejection to avoid termination of the appeal as to the rejected claims:

(1) *Reopen prosecution.* Submit an appropriate amendment of the claims so rejected or new Evidence relating to the claims so rejected, or both, and have the matter reconsidered by the examiner, in which event the prosecution will be remanded to the examiner. The new ground of rejection is binding upon the examiner unless an amendment or new Evidence not

previously of Record is made which, in the opinion of the examiner, overcomes the new ground of rejection designated in the decision. Should the examiner reject the claims, appellant may again appeal to the Board pursuant to this subpart.

(2) *Request rehearing.* Request that the proceeding be reheard under § 41.52 by the Board upon the same Record. The request for rehearing must address any new ground of rejection and state with particularity the points believed to have been misapprehended or overlooked in entering the new ground of rejection and also state all other grounds upon which rehearing is sought.

Further guidance on responding to a new ground of rejection can be found in the Manual of Patent Examining Procedure § 1214.01.

REVERSED; 37 C.F.R. § 41.50(b)